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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,937	02/22/2002	Timothy Francis	31009-9072-01	6528

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EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,937

Applicant(s)

FRANCIS, TIMOTHY

Examiner

Joanne Silbermann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6 and 13-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 18-23 and 30-35 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 7-12, 24-29, 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 3, 6 and 13-17 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 20, 2003.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7-12, 24, 25 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotutsca in view of Thompson.

4. Cotutsca teaches a display device including object 16 (Figure 1) having first and second ends, substantially thin, flexible tether (linear filament) 23 connected to the second end, first magnet 30, and second magnet 26 (Figures 2 and 3). As shown in Figures 1 and 3, base 12 includes an aperture through which the filament extends. Tape 32 then secures the filament to the underside thereof (column 3 lines 29-30).

5. Cotutsca does not teach rotating the display with a motor, however, this is old and well known in the art. Thompson teaches a rotating display having filament 15 attached to one end of object 24 and the other end to electric motor

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14 (Figure 1). It would have been obvious to utilize such a motor in the device of Cotutsca so as to create a more interesting display, as discussed in Cotutsca, page 1 lines 6-15.

6. Cotutsca and Thompson do not teach using a spring to attach the object to the motor, however, this is considered to be an equivalent alternative. It would have been obvious to a person having ordinary skill in the art to utilize another such connection so as to provide a different type of motion for the display object.

7. Cotutsca and Thompson also do not specify one magnet as being stronger than the other, however, it would have been obvious to one of ordinary skill to utilize magnets of sufficient strength to support the object in the proper position.

8. Cotutsca and Thompson do not teach using a transformer or battery power, however, these are well known electrical components. It would have been obvious to utilize a transformer if only AC current were available. It also would have been obvious to utilize a battery if no other power source were available or if the device was used in a remote location.

9. Claims 5 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotutsca and Thompson as applied to claim 1 above, and further in view of Gill et al. (Gill).

10. Cotutsca and Thompson do not teach using a fan, however, fans are old and well known in the art of display devices. Gill teaches an advertising device including fan 3. It would have been obvious to utilize a fan in the device of

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Cotutsca (as modified by Thompson) so as to create a more interesting, noticeable display.

Allowable Subject Matter

11. Claims 4, 18-23 and 30-35 are allowed.

12. As described in the above rejection, Cotutsca teaches a display device in which a display object is suspended in a fluid (air) by a magnetic field created by magnets 26 and 30. Thompson teaches the rotation of a display device to attract attention. In Thompson, tether 15 is rotated. The combination creates a display as shown in Cotutsca rotated by a motor, as in Thompson. The Thompson reference is not intended to be modified to be used with magnets, as suggested by Applicant on page 12 of the Remarks.

13. Regarding the Gill reference, claim 5 describes the display as including a fan causing air flow onto the object. This is shown by Gill. The display of Cotutsca could be modified to include a fan causing air to flow on the object for the purpose of creating a moving display, which would attract attention and be more interesting.

14. Regarding claim 36, Cotutsca teaches base 12 as described above.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tues. - Thurs. 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joanne Silberman
Primary Examiner
Art Unit 3611

JS